Copyright Board of Canada

2009-10

Departmental Performance Report

Tony Clement
Minister of Industry

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Minister Clement's Message

Last year, Canada was the last country to fall into the global recession. Today, our economy is beginning to emerge in the strongest position of any advanced country in the world. Investment and key stimulus measures as part of Year 1 of Canada's Economic Action Plan provided continued results and helped set Canada apart from its G-8 counterparts in terms of economic strength.

In 2009-10, Industry Canada worked quickly with its Portfolio Partners to deliver timely and targeted stimulus initiatives. Composed of Industry Canada and 10 other agencies, Crown corporations and quasi-judicial bodies, the Portfolio helps the department to build a more productive and competitive economy.

Industry Canada, in collaboration with Canadian Heritage, held extensive cross-country consultations in the summer of 2009 to seek the views of Canadians on copyright. The recently introduced legislation to update the *Copyright Act* is a priority for the government and provides a balanced approach to protecting the rights of copyright holders and consumers. As presented in this report, the Copyright Board of Canada continued to balance the interests of holders and users of copyrighted works to provide workable solutions for copyright tariffs.

Moving forward, Industry Canada will continue to ensure that the jobs and industries of the future are created right here in Canada. We will follow through on delivering existing stimulus plans and continue to support government priorities. This means ensuring that we have the right conditions and regulatory frameworks in place to encourage investment in Canada, increasing support for R&D to improve Canada's long-term competitiveness and developing a digital economy.

I will work with the Industry Portfolio Partners, the private sector and other governments to enhance Canada's productivity and create the foundation for strong, sustainable and balanced growth.

It is my pleasure to present this year's *Departmental Performance Report* for the Copyright Board of Canada.

Tony Clement
Minister of Industry

SECTION I: DEPARTMENTAL OVERVIEW

Raison d'être

The Copyright Board of Canada's program objective is to set royalties which are fair and equitable to both copyright owners and users of copyright-protected works. This includes setting fair and equitable terms and conditions so as to permit the use of works when the owner of the copyright cannot be located.

The Board is an independent administrative agency that has been conferred department status for purposes of the *Financial Administrative Act*. The mandate of the Board is set out in the *Copyright Act* (the "*Act*"). The Board is empowered to establish, either mandatorily or at the request of an interested party, the royalties to be paid for the use of copyrighted works when the administration of such works is entrusted to a collective administrative society.

The Copyright Board of Canada is an economic regulator. It deals with complex social, cultural, demographic, economic and technological issues. The Board's decisions are not appealable, but can be the subject of judicial review by the Federal Court of Appeal. The Board has existed in one form or another since the 1930s, but its jurisdiction was significantly expanded in 1989 and 1997.

The program objective of the Board underlies the achievement of strategic outcomes related to innovation through new knowledge, which has become the main source of competitive advantage in all sectors of economic activity and is closely associated with increased exports, productivity growth, and the creation of new firms.

In this context, our country's handling of intellectual property matters is a critical element in our long-term success in innovation, and by extension, to our long-term economic health. The terms and conditions by which intellectual property owners (such as owners of copyrighted works) are compensated will largely define the incentive structure for innovation in and creation of copyrighted materials. In addition, the design and implementation of regulations can have a significant impact on innovation and competitiveness, particularly in the areas of intellectual property rights.

Responsibilities

Mandate, Roles and Responsibilities

Mandate of the Board
The Board is an economic regulatory body empowered to establish, either mandatorily or at the request of an interested party, the royalties to be paid for the use of copyrighted works, when the administration of such copyright is entrusted to a collective-administration society. The Board also has the right to supervise agreements between users and licensing bodies and issues licences when the copyright owner cannot be located.

The Copyright Board of Canada was established on February 1, 1989, as the successor of the Copyright Appeal Board. Its responsibilities under the *Act* are to:

- certify tariffs for the public performance or the communication to the public by telecommunication of musical works and sound recordings [sections 67 to 69];
- certify tariffs, at the option of a collective society referred to in section 70.1, for the doing of any protected act mentioned in sections 3, 15, 18 and 21 of the *Act* [sections 70.1 to 70.191];
- set royalties payable by a user to a collective society, when there is disagreement on the royalties or on the related terms and conditions [sections 70.2 to 70.4];
- certify tariffs for the retransmission of distant television and radio signals or the reproduction and public performance by educational institutions, of radio or television news or news commentary programs and all other programs, for educational or training purposes [sections 71 to 76];
- set levies for the private copying of recorded musical works [sections 79 to 88];
- rule on applications for non-exclusive licences to use published works, fixed performances, published sound recordings and fixed communication signals, when the copyright owner cannot be located [section 77];
- examine, at the request of the Commissioner of Competition appointed under the *Competition Act*, agreements made between a collective society and a user which have been filed with the Board, where the Commissioner considers that the agreement is contrary to the public interest [sections 70.5 and 70.6];
- set compensation, under certain circumstances, for formerly unprotected acts in countries that later join the Berne Convention, the Universal Convention or the Agreement establishing the World Trade Organization [section 78].

In addition, the Minister of Industry can direct the Board to conduct studies with respect to the exercise of its powers [section 66.8].

Finally, any party to a licence agreement with a collective society can file the agreement with the Board within 15 days of its conclusion, thereby avoiding certain provisions of the *Competition Act* [section 70.5].

Strategic Outcome(s) and Program Activity Architecture (PAA)

In order to effectively pursue its mandate, the Board aims to achieve the following strategic outcome, with its unique program activity:

STRATEGIC OUTCOME	PROGRAM ACTIVITY
Fair decision-making to provide proper incentives for the creation and use of copyrighted works	Copyright Tariff Setting and Issuance of Licences

Summary of Performance

2009-10 Financial Resources ($ thousands)

Planned Spending	Total Authorities	Actual Spending
3,201	3,201	2,731

2009-10 Human Resources (FTEs)

Planned	Actual	Difference
21	18	3

($ thousands)

Program Activity	2008-09 Actual Spending	2009-10				Alignment to Government of Canada Outcome
		Main Estimates	Planned Spending	Total Authorities	Actual Spending	
Copyright Tariff Setting and Issuance of Licences	2,678	2,624	3,201	3,201	2,731	An innovative and knowledge-based economy
Total	2,678	2,624	3,201	3,201	2,731	

Note 1: Commencing in the 2009-10 Estimates cycle, the resources for Program Activity: Internal Service is displayed separately from other program activities; they are no longer distributed among the remaining program activities, as was the case in previous Main Estimates. This has affected the comparability of spending and FTE information by Program Activity between fiscal years.

Note 2: In its 2009-10 Report on Plans and Priorities, the Board had planned expenditures of $3,054,000. It received a further amount of $147,143 that increased its planned expenditures. This amount includes five percent of the previous year's budget that the Board is allowed to carry forward as well as compensation for collective bargaining agreements.

Summary of Achievements

In 2009-2010, the Board held three hearings. One in May 2009, when it considered, as a preliminary issue, whether the Neighbouring Rights Collective of Canada (NRCC) – now renamed Re: Sound – is entitled to claim equitable remuneration pursuant to section 19 of the *Copyright Act* for a published sound recording that is part of the soundtrack of a motion picture performed in public (NRCC Tariff 7) and a television program communicated to the public by telecommunication (NRCC Tariff 9). Another hearing was held in November 2009 to examine again as a preliminary issue whether there exists a sub-category of CDs, described as "professional CDs", that are not ordinarily used to copy music, as well as to set the Private Copying Tariff levies for the year 2010. And finally, in December 2009, the tariffs of the Society of Composers, Authors and Music Publishers of Canada (SOCAN) (for the years 2006-2010) and NRCC (for the years 2006-2011) for the radio of the Canadian Broadcasting Corporation were jointly heard.

During the same fiscal year, the Board issued 14 decisions. Five of them dealt with the public performance of music – two of which also included the reproduction of musical works – as follows:

- Satellite Radio Services (SOCAN, NRCC and CMRRA-SODRAC Inc. or CSI)
- Background Music Suppliers (SOCAN Tariff 16)
- NRCC Tariffs 7 and 9 [Preliminary Issue]
- Application for a joint hearing re: Online Music Services (SOCAN and CSI)
- Pay Audio Services (SOCAN and NRCC)

Five others dealt with arbitration proceedings: four set royalties and the related terms and conditions of interim licences and one ruled on the joint examination of two applications. The Board also certified Access Copyright's tariff for educational institutions for the years 2005-2009 and the Canadian Broadcasters Rights Agency (CBRA) tariff for media monitoring for the years 2009-2010.

Finally, two dealt with private copying. The first, rendered on October 19, 2009, was further to a request to vary the 1999-2007 certified tariffs filed by Z.E.I. Media Plus Inc. and the other set an interim tariff for the year 2010.

Ten licences were also issued under the provisions of the *Copyright Act* which permit the use of published works for which the copyright owners cannot be located.

In 2009-2010, the Board initiated four procedures leading to hearings. One concerned requests for arbitration filed by SODRAC asking the Board to set the terms and conditions of licences for the reproduction of musical works by the Canadian Broadcasting Corporation and Les chaînes Télé Astral and Teletoon (Groupe Astral); these were joined to be heard in June 2010. Another request for arbitration was filed by SODRAC concerning MusiquePlus. This case is expected to be heard in November of 2010. One other proceeding, combining SOCAN's and CSI's tariffs for online music services will be heard in June 2010 and finally, Access Copyright's tariff for the

reprographic reproduction of works in its repertoire by provincial and territorial governments for the years 2005 to 2014 is scheduled to be heard in November 2011.

Contribution of Priorities to Strategic Outcome

Operational Priorities	Type	Status	Linkages to Strategic Outcome
1. Ensure timely and fair processes and decisions	Ongoing	Successfully met	Fair decision-making to provide proper incentives for the creation and use of copyrighted works.
2. Advance the analytical framework for decisions and the regulatory processes for tariff-setting	Ongoing	Successfully met	

Management Priorities	Type	Status	Linkages to Strategic Outcome(s)
1. Improve management practices	Ongoing	Successfully met	Fair decision-making to provide proper incentives for the creation and use of copyrighted works

There are three priorities associated with the Copyright Board's strategic outcome:

1. Ensure timely and fair processes and decisions

In 2009-2010, the Board took several steps which resulted in a reduction of the regulatory burden. For instance, when appropriate, the Board combined hearings processes which have resulted in some cost savings for the participants. Such was the case for the two applications for arbitration, namely SODRAC v. SRC/CBC and SODRAC v. Groupe Astral, merged into a single process. The SODRAC Tariff No. 5 (Video-copies) process was also partially merged with the two arbitrations, allowing for common evidence to be presented only once. Two distinct tariffs with respect to online music services were also combined into a single hearing (SOCAN Tariff 22.A and CSI Tariff), which resulted in significant cost reduction for the parties.

The Board's priority of timely and fair decision-making was also achieved by engaging in pre-hearing consultations, information gathering and web site postings. These procedures assisted in conducting well-organized proceedings which address key issues facing copyright-related industries.

The Board receives tariff applications from collective societies on or before March 31 of a given year in which a tariff is scheduled to terminate. The Board has some latitude in the scheduling of hearings and tries to initiate the procedure leading to a hearing as efficiently as possible. The Board posts its upcoming hearing schedule on its website (www.cb-cda.gc.ca). There are no

statutory deadlines for the release of the Board's decisions. However, the Board endeavours to deal with all applications as expeditiously as possible, while keeping the interests and constraints of the parties in mind. Starting with the Departmental Performance Report for 2010-11, the Board will report on two indicators that will focus on measuring delays before decisions are published and licences delivered.

Greater participant satisfaction is closely linked to the timeliness and orderly conduct of formal proceedings. The Board continued to structure and sequence witnesses and hearing stages so as to eliminate duplication and maximize time spent on relevant issues.

Because the Board hearings involve adversarial parties, some of whom will likely experience direct economic gain or loss in association with an offsetting gain or loss to another party, the Board's decisions cannot be expected to be satisfactory to all parties at all times. However, the Board attempts to bring unbiased and rigorous reasoning to its decision-making. The Board also recognizes the need to provide clear and sufficiently detailed explanations in its decisions so as to assist parties in preparing for the next round of tariff-setting.

In addition, the Board continued to examine alternatives to current procedures based upon input from hearing participants as part of a plan to develop and implement a more active involvement in pre-hearing information gathering aimed at reducing time and cost to participants while safeguarding the fairness of procedures.

Starting with the Departmental Performance Report for 2010-2011, the Board will also report on the level of satisfaction of participants, in particular with respect to the services provided either as part of a formal hearing process leading to the certification of a tariff or in an informal process leading to the issuance of a licence.

2. Advance the analytical framework for decisions and the regulatory processes for tariff-setting

Leadership in copyright matters continued to build on the groundwork performed in the past, as noted in previous Departmental Planning Reports. The Board pursued its leadership role in the establishment and expansion of international activities such as sharing of procedures, data, analysis and other information.

The international initiative is also a key tool in addressing the challenges of changing technology and the impact of global events. By comparing experiences across different countries, the Board can gain early warning of significant developments and their likely impacts on the Canadian situation.

Among the international fora of copyright specialists which the Board Members and staff attended in 2009-2010, the following are noteworthy: the Seventeenth Annual Conference of the Fordham Intellectual Property Law Institute held at Cambridge University in April 2009; the Annual Conference of the *Association littéraire et artistique internationale* (ALAI) (London, England, June 2009); and the Annual Congress of the Society for Economic Research on Copyright Issues (SERCI) (Berkeley, United States, July 2009). The Board was also represented at numerous similar national meetings in Canada. The rationale for the Board's "screening"

activities is to identify and assess industry trends before they undermine existing copyright regimes.

3. Improve management practices

The Board has updated its Human Resources Plan as this is an evolving document that needs to be reviewed to take into account changing priorities. The Board has also continued to work on the implementation of its Performance Measurement Framework, which will be done for 2010-2011. In addition, the Business Continuity Plan was also updated and implemented.

The Horizontal Internal Audit of expenditures controls in small departments and agencies, which was done in 2008-2009, assessed the design and functioning of controls established to identify high risk payments (e.g., highly sensitive transactions, payments which are largely judgemental or subject to interpretation, payments of very large dollar amounts, etc.) for further attention and verification. Further to the auditors' unique recommendation with respect to the Board, it was decided that the Comptrollership and Administration Sector of Industry Canada would carry on quarterly reviews of randomly selected transactions for the Copyright Board of Canada. The first sampling review was done in the second quarter of 2009-2010. Issues related to coding corrections and pre-authorization of travel were found and corrected appropriately.

For the first time in the Board's history, in 2009-2010, a part-time member was appointed for a five-year term. The Board thus has put in place an administrative policy regarding salary and travel claims with regard to part-time members.

In 2009-2010, the Board continued to embrace a green environment by encouraging the three Rs that are reuse, recycle and reduce. It participated in the Public Works and Government Services of Canada's "WebRics" program for the disposal of its surplus equipment.

Risk Analysis

Operating Environment

The mandate of the Copyright Board of Canada is set out in the *Act* as amended in 1997. The Board has powers of a substantive and procedural nature. Some powers are granted to the Board expressly in the *Act*, and some are implicitly recognized by the courts.

The *Act* requires that the Board certify tariffs in the following fields: the public performance or communication of musical works and of sound recordings of musical works, the retransmission of distant television and radio signals, the reproduction of television and radio programs by educational institutions and private copying. In other fields where rights are administered collectively, the Board can be asked by a collective society to set a tariff; if not, the Board can act as an arbitrator if the collective society and a user cannot agree on the terms and conditions of a licence.

The examination process is always the same. The collective society must file a statement of proposed royalties which the Board publishes in the *Canada Gazette*. Tariffs always come into effect on January 1. On or before the preceding 31st of March, the collective society must file a proposed statement of royalties. The users targeted by the proposal (or in the case of private copying, any interested person) or their representatives may object to the statement within sixty days of its publication. The collective society in question and the opponents will then have the opportunity to argue their case in a hearing before the Board. After deliberations, the Board certifies the tariff, publishes it in the *Canada Gazette*, and explains the reasons for its decision in writing.

As a rule, the Board holds hearings. No hearing will be held if proceeding in writing accommodates a small user that would otherwise incur large costs. The hearing may be dispensed with on certain preliminary or interim issues. No hearings have been held yet for a request to use a work whose owner cannot be located. The process has been kept simple. Information is obtained either in writing or through telephone calls.

Risk Evaluation

Because the stakes are considerable both for copyright holders and for users of copyright, interventions before the Board are thorough, sophisticated and often involving expert witnesses, litigation specialists and detailed econometric, business and financial studies, surveys and evidence. The Board must be able to correctly assess the ever-changing technological environment (such as the Internet, digital radio, satellite communications), the global events, the new business models and the interests of owners and users in order to contribute, with fair and equitable decisions, to the continued growth of Canada's knowledge industries.

Decisions and tariffs issued by the Board must also take into account the specific environment in which it will be applied. A tariff's structure and terms and conditions need to be set in accordance with the industry's technology, business models and economic environment. Sound tariff decisions avoid serious disruption in affected sectors of the national economy and costly

and time-consuming court challenges. They also more generally impact positively on the growth of the sectors involved, and hence on the overall economy.

Among the most significant risks which the Board faces in achieving its strategic outcomes is the potentially disruptive impact of new technologies (i.e., in terms of how copyright material is utilized, distributed and monitored). The Board's approach to managing the technology risk is to systematically monitor relevant journals, other publications and web sites, and to attend industry seminars and conferences, as described before in this report.

The decisions the Board makes are constrained in several respects. These constraints come from sources external to the Board: the law, regulations and judicial pronouncements. Others are self-imposed, in the form of guiding principles that can be found in the Board's decisions.

Court decisions also provide a large part of the framework within which the Board operates. Most decisions focus on issues of procedure, or apply the general principles of administrative decision-making to the specific circumstances of the Board. However, the courts have also set out several substantive principles for the Board to follow or that determine the ambit of the Board's mandate or discretion.

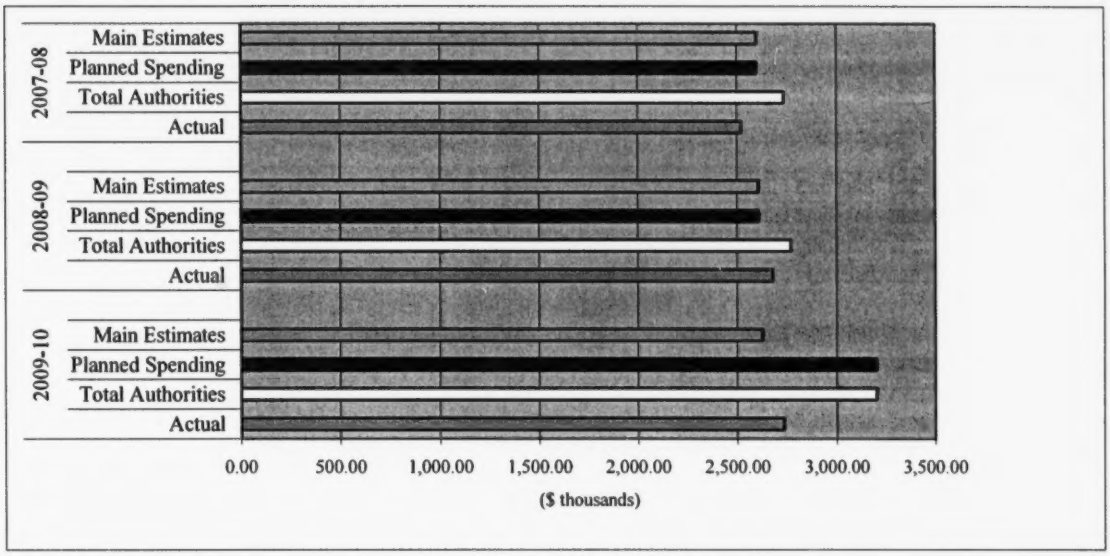
The Board also enjoys a fair amount of discretion, especially in areas of fact or policy. In making decisions, the Board itself has used various principles or concepts. Strictly speaking, these principles are not binding on the Board. They can be challenged by anyone at anytime. Indeed, the Board would illegally fetter its discretion if it considered itself bound by its previous decisions. However, these principles do offer guidance to both the Board and those who appear before it. In fact, they are essential to ensuring a desirable amount of consistency in decision-making.

Among those factors, the following seem to be the most prevalent: the coherence between the various elements of the public performance of music tariffs, the practicality aspects, the ease of administration to avoid tariff structures that make it difficult to administer the tariff in a given market, the search for non-discriminatory practices, the relative use of protected works, the taking into account of Canadian circumstances, the stability in the setting of tariffs that minimizes disruption to users, as well as the comparisons with "proxy" markets and comparisons with similar prices in foreign markets.

Expenditure Profile

The Board's actual spending for 2009-2010 was $2.73 million. Since fiscal year 2008-09, actual spending increased by 2.0 %. This is a reflection of the salary increases as per collective bargaining agreements and the Board's hiring of additional staff to better cope with its increasing workload. The two charts below show differences between Planned Spending, Total Authorities and Actual Spending for the unique program activity.

Although planned expenditures for 2009-2010 were at $3,201,000, actual spending was only $2,731,000. This is due to the fact that two full-time members' positions were not filled. Instead one part-time member was appointed.



Voted and Statutory Items

($ thousands)

Vote # or Statutory Item (S)	Truncated Vote or Statutory Wording	2007-08 Actual Spending	2008-09 Actual Spending	2009-10 Main Estimates	2009-10 Total Authorities	2009-10 Actual Spending
45	Operating expenditures	2,286	2,429	2,340	2,950	2,480
(S)	Contributions to employee benefit plans	235	249	285	251	251
Total		2,521	2,678	2,624	3,201	2,731

SECTION II: ANALYSIS OF PROGRAM ACTIVITIES BY STRATEGIC OUTCOME

Strategic Outcome

Strategic Outcome: Fair decision-making to provide proper incentives for the creation and uses of copyrighted works

The Board's strategic outcome is to ensure fair decision-making to provide proper incentives for the creation and uses of copyrighted works. The achievement of this outcome relates to innovation, which is a main source of competitive advantage in all areas of economic endeavour.

The use and re-use of cultural and entertainment content (such as musical works) have become widespread with the advent of new media and on-line services, new playback and editing technologies and new uses in conventional media. These matters manifest themselves in some of society's most complex and contentious issues, including the downloading of musical content over the Internet using file-sharing software, the use of digital decoders to receive scrambled TV signals and the proliferation of duplication technologies, including computers, which have the capability to make digital copies of CDs and DVDs.

The Copyright Board of Canada recognizes the need to ensure an effective and efficient copyright regulatory regime in order to attain the maximum productivity in those sectors that create and use copyrighted works. Further, the performance of the Copyright Board will promote a fair and competitive marketplace as well as reasonable opportunities for Canadian firms to export copyright protected goods and services in the music, for content creation and programming areas, as well as for the downstream broadcasting, publishing and entertainment industries.

Program Activity by Strategic Outcome

Program Activity: Copyright Tariff Setting and Issuance of Licences					
2009-10 Financial Resources ($ thousands)			2009-10 Human Resources (FTEs)		
Planned Spending	Total Authorities	Actual Spending	Planned	Actual	Difference
3,201	3,201	2,731	21	18	3

To contribute to this strategic outcome, the Board's unique program activity is Copyright Tariff Setting and Issuance of Licences.

In 2009-2010, the Board held three hearings and issued 14 decisions. What follows is a brief summary of these activities listed according to the legal regime that applies to each category. For further detail, please refer to the Board's 2009-2010 Annual Report which can be found at www.cb-cda.gc.ca.

1. Public Performance of Music

During the fiscal year, the Board held two hearings as follows:

- In May 2009, it considered, as a preliminary issue, whether the Neighbouring Rights Collective of Canada (NRCC) – now renamed Re:Sound – is entitled to claim equitable remuneration pursuant to section 19 of the *Copyright Act* when a published sound recording is part of the soundtrack that accompanies a motion picture that is performed in public (NRCC Tariff 7), and a television program that is communicated to the public by telecommunication (NRCC Tariff 9).

- In December 2009, it jointly examined the tariffs of SOCAN (2006-2010) and NRCC (2006-2011) for the radio of the Canadian Broadcasting Corporation.

The Board issued the following five decisions, two of which also included reproduction rights:

- Satellite Radio Services Tariff (SOCAN, NRCC and CMRRA-SODRAC Inc. or CSI, for the years 2005 to 2010), on April 8, 2009.

- Background Music Suppliers (SOCAN Tariff 16, for the years 2007-2009), on June 19, 2009.

- NRCC's Tariffs 7 and 9 [Preliminary Issue], on September 16, 2009.

- Application for a joint hearing on SOCAN's and CSI's tariff for online music services, on October 8, 2009.

- Pay Audio Services Tariff (SOCAN and NRCC), on January 15, 2010.

2. Private Copying

In November 2009, the Board held a hearing to examine the issue of whether there exists a sub-kind of CD's, or "professional CDs", that are not ordinarily used to copy music, as well as the Private Copying Tariff proposal for the year 2010.

The Board issued two decisions, as follows:

- On October 19, 2009, further to a request to vary the 1999-2007 certified tariffs filed by Z.E.I. Media Plus Inc.

- On December 16, 2009, setting an interim tariff for the year 2010.

3. Collective Administration (General Regime)

As mentioned in section 1 above, the Board rendered two decisions that included the performance and reproduction rights, namely:

- Satellite Radio Services Tariff (SOCAN, NRCC and CMRRA-SODRAC Inc. or CSI) for the years 2005 to 2010, on April 8, 2009.

- Application for a joint hearing on SOCAN's (2007-2010) and CSI's (2008-2010) tariff for online music services, on October 8, 2009.

In addition, five decisions dealt with arbitration proceedings: four set royalties and the related terms and conditions of interim licences and one ruled on the joint examination of two applications. The Board also certified Access Copyright's tariff for educational institutions for the years 2005-2009 and the Canadian Broadcasters Rights Agency (CBRA) tariff for media monitoring for the years 2009-2010.

4. Unlocatable Copyright Owners

In 2009-2010, 26 applications were filed with the Board for the use of published works for which rights holders could not be found and 10 non-exclusive licences were issued for the use of such works.

5. Agreements Filed with the Board

In 2009-2010, 515 agreements were filed with the Board pursuant to section 70.5 of the *Act*.

Access Copyright, The Canadian Copyright Licensing Agency, which licenses reproduction rights such as digitization and photocopy, on behalf of writers, publishers and other creators, filed 305 agreements granting educational institutions, language schools, non-profit associations, copy shops and others a licence to photocopy works in its repertoire.

The *Société québécoise de gestion collective des droits de reproduction* (COPIBEC) filed 127 agreements. COPIBEC is the collective society which authorizes in Quebec the reproduction of works from Quebec, Canadian (through a bilateral agreement with Access Copyright) and foreign rights holders. The agreements filed in 2009-2010 were concluded with various educational institutions, school boards, municipalities and other users.

The Audio-Video Licensing Agency (AVLA) is a copyright collective that administers the copyright in master audio and music video recordings, and licences the exhibition and reproduction of music videos and the reproduction of audio recordings for commercial use. AVLA filed 80 agreements.

Finally, the Canadian Broadcasters Rights Agency (CBRA) filed three agreements it entered into: one with the Province of Alberta and two with the Government of Canada, for media

monitoring. CBRA represents various Canadian private broadcasters who create and own radio and television news and current affairs programs and communication signals.

Lessons Learned

The Board has been facing increasing workload pressures leading to unnecessary delays in issuing decisions and creating a backlog in the certification of uncontested tariffs. The Board recognized the need for stability to overcome the challenges it was facing. The first step taken by the Board was to establish its succession plans, which are crucial for the orderly continuation of the Board's activities.

The second step was to more directly deal with the delays and the backlog. After negotiations with the two departments responsible for the copyright legislation, Industry Canada and Canadian Heritage, the Copyright Board obtained additional funding of $430,000 ($215,000 each) starting in 2009-2010. These increased resources led to hiring two new economic analysts as part of the Research and Analysis Branch, allowing the Board to better meet its increasing workload and more adequately fulfill its mandate.

Benefits for Canadians

The Board's decisions and licences set fair and equitable rates and conditions for the use of copyright protected works. Overall, the Board is responsible for tariffs that are estimated to be worth over $300 million annually. In fact, copyright tariffs support several industries which, according to a Conference Board of Canada study (Valuing Culture, Measuring and Understanding Canada's Creative Economy, Conference Board of Canada, August 2008), generated in 2007 an amount representing 7.4% of Canada's GDP when taking into account the direct, indirect and induced contribution. They also contributed 1.1 million jobs to the economy.

Cultural industries are growing at a rapid pace and are at the heart of the knowledge economy. In particular, the Canadian system of collective copyright administration is a healthy and growing part of our economy. Cultural industries' ability to continue to grow depends heavily on well-thought-out decisions respecting copyright. Timeliness in rendering decisions can impact on the growth and innovation in the Canadian economy.

SECTION III: SUPPLEMENTARY INFORMATION

Financial Highlights

The financial highlights presented within this DPR are intended to serve as a general overview of the Copyright Board's financial position and operations. The Board's financial statements can be found on the Board's website at: www.cb-cda.gc.ca.

(in dollars)

Condensed Statement of Financial Position At end of Fiscal Year (March 31, 2010)	% Change	2010	2009 (Restated*)
ASSETS			
Total Assets	13.4%	283,729	250,224
TOTAL	13.4%	283,729	250,224
LIABILITIES			
Total Liabilities	-7.2%	554,375	597,305
EQUITY			
Total Equity	-22%	(270,646)	(347,081)
TOTAL	13.4%	283,729	250,224

(in dollars)

Condensed Statement of Financial Operations At end of Fiscal Year (March 31, 2010)	% Change	2010	2009
EXPENSES			
Total Expenses	-5%	2,977,863	3,133,727
REVENUES			
Total Revenues	-	414	-
NET COST OF OPERATIONS	-5%	2,977,449	3,133,727

* The Copyright Board of Canada adopted the new Treasury Board Accounting Standard 1.2 for departmental financial statements. The change has resulted in comparative data restatements for the 2009 fiscal year. The adopted standard has resulted in an asset called "Due from the Consolidated Revenue Fund" now being included in the departmental financial statements. For more information, please consult the notes to the departmental financial statements.

Other Items of Interest

Organizational Information

Board Members

Board members are appointed by the Governor in Council to hold office during good behaviour for a term not exceeding five years. They may be reappointed once.

The *Act* requires that the Chairman must be a judge, either sitting or retired, of a superior, county or district court. The Chairman directs the work of the Board and apportions its caseload among the members.

The *Act* also designates the Vice-Chairman as Chief Executive Officer of the Board. He or she exercises direction over the Board and supervises its staff.

The organizational structure of the Board follows the requirements set out in section 66 and following sections of the *Act*.

Board's Staff

The Board has a staff of thirteen employees, organized around five operational groups:

1. The Registry group, which plans and manages all activities and resources related to public hearings, and the issuing of licences for the use of works whose copyright owners cannot be located, which includes receiving, organizing and reviewing the documentary evidence and information, and organizing and maintaining the Board's records, archives and library.

2. The Research and Analysis group, which is responsible for the preparation and analysis of reports and research papers, the development of scenario analysis and recommendations and the provision of economic support to Board members and for decisions.

3. The Legal Analysis group, which provides legal analysis and advice on tariff and licence applications before the Board, and represents the Board before the Courts in matters involving its jurisdiction.

4. The Corporate Services group, which is responsible for financial and materiel management policies, systems, processes and standards which are consistent with modern comptrollership.

5. The Technical Support group, which provides support in particular in respect of informatics.